IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

WP(C).No. 26788 of 2007(L)

PETITIONER:

MUHAMMED SHAREEF, S/O. ABDU,
AGED 30 YEARS, KIDANGAYATH HOUSE, PANTHALLOOR,
MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS:

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1. THE ANAKKAYAM GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, ANAKKAYAM,
MALAPPURAM DISTRICT.

2. THE DISTRICT COLLECTOR, MALAPPURAM.

3. THE REVENUE DIVISIONAL OFFICER,
PERINTHALMANNA, MALAPPURAM DISTRICT.

4. THE SUB INSPECTOR OF POLICE,
MELATTOOR POLICE STATION, MALAPPURAM DISTRICT.

R2 TO R4 BY SR.GOVT.PLEADER SRI.K.J.MOHAMMED ANZAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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W.P.(C)No.26788 OF 2007

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DATED THIS THE 12TH SEPTEMBER, 2007

O R D E R

The learned Government Pleader opposes the prayer for interim relief tooth and nail. According to him, at the time when the vehicle was intercepted, it did not carry any Pass at all. He further submitted that significantly the petitioner has not chosen to produce copy of the Pass as would normally be expected of a person with similar grievances.

2. Sri.Babu S.Nair, counsel for the petitioner submitted that interception of the vehicle was as soon as the journey started from the kadavu and there was no time to take a photo copy of the Pass. The original of the Pass was seized by the 3rd respondent. Counsel asserted that the 1st respondent-Panchayat is keeping the counter-foil of the Pass which had been issued to the petitioner and which was being carried by him in the lorry at the time of its interception.

3. Though one would have expected the petitioner to retain a photo copy of the Pass also and produce the same in this Court, it is not possible now to say that the version of the petitioner is absolutely improbable. After all, nobody gains by allowing the vehicle and the load to idle in the precincts of the police station. The question whether

the petitioner was carrying a valid Pass is a question which can be decided by the adjudicating authority (the 2nd respondent) with notice to the 1st respondent-Panchayat. Appropriate direction can be given by the 2nd respondent during the enquiry to the 1st respondent for production of the counter-foil of the Pass which the petitioner claims to have carried. I am inclined to direct release of the vehicle subject to the following conditions:-

The petitioner is directed to remit cash Rs.10,000/- (Rs.Ten thousand only) with the 3rd respondent. The petitioner is also directed to file an affidavit undertaking to produce the vehicle having Registration No.KL-8K 6759 in good running condition as and when directed in that regard by the 2nd respondent or by any other competent authority. The 4th respondent, the present custodian shall release the vehicle and the load forthwith upon noticing the original of the cash receipt and photo copy of the affidavit filed by the petitioner as directed above. It is made clear that the release is provisional and subject to the result of the adjudication proceedings which would be commenced and completed by the 2nd respondent early and at any rate within five months of receiving copy of this order.

tgl **(PIUS C.KURIAKOSE, JUDGE)**

PIUS C. KURIAKOSE, J.

PIUS C.KURIAKOSE, J.

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W.P.(C)No.26788 OF 2007

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DATED THIS THE 12TH SEPTEMBER, 2007

JUDGMENT

I have today passed an interim order which, according to me, grants to the petitioner all possible reliefs. In view of the interim order, the Writ Petition will stand disposed of.

tgl **(PIUS C.KURIAKOSE, JUDGE)**